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PETER J. SHARP BOATHOUSE, INC.
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the Complaint of Andrew Harnett, as
owner of vessel M/V READY JET GO for Exoneration
from or Limitation of Liability.

and

In the Matter of Peter J. Sharp Boathouse, Inc., as owner of
the floating vessel constituting the boathouse, seeking
exoneration from or limitation of liability.

**1:06-cv-00699(LMM)(GWG)
consolidated with:
1:06-cv-03061(LMM)(GWG), and
1:06-cv-03062(LMM)(GWG)**

and

In the Matter of New York Rowing Association, Inc., as
owner of a 2001, coxless Empacher rowing shell, seeking
exoneration from or limitation of liability.

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**STATEMENT OF UNDISPUTED MATERIAL FACTS
ON BEHALF OF
NEW YORK ROWING ASSOCIATION, INC. and
PETER J. SHARP BOATHOUSE, INC.
PURSUANT TO RULE 56.1**

Petitioner and Claimant, NEW YORK ROWING ASSOCIATION, INC.

("NYRA"), and Petitioner, PETER J. SHARP BOATHOUSE, INC. ("the Boathouse"),
by their attorneys WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP, as

and for their Statement of Undisputed Material Facts, pursuant to Local Rule 56.1, state as follows:

1. **On the morning of October 24, 2005, Jim H. Runsdorf, Edward Joyce, Jeff Lundwall, and Vincent Houston (collectively referred to as “the Rowers”) met at the Boathouse on the Harlem River before 6:00 a.m. to go rowing.** [Nina and Lee Runsdorfs’ Response to Peter J. Sharp Boathouse Inc. and New York Rowing Association Inc.’s Request for Admissions (“Runsdorfs’ Response to Request for Admissions”), No. 2, attached as Exhibit “A” to Affidavit of Lawrence B. Brennan (“Brennan Aff.”); Deposition of Edward Joyce, at 28:8-29:4, attached as Exhibit “B” to Brennan Aff. (“Joyce Depo.”); Deposition of Vincent Houston, at 69:13-18, 71:6-16, attached as Exhibit “C” to Brennan Aff. (“Houston Depo.”); Deposition of Jeff Lundwall, at 26:23-27:4, 37:18-38:15, 40:3-11, attached as Exhibit “D” to Brennan Aff. (“Lundwall Depo.”).
2. **Each of the Rowers had prior experience rowing onboard rowing shells.** [Runsdorfs’ Response to Request for Admissions, No. 4; Joyce Depo., at 17:2-19:2; Houston Depo., at 7:6-17, 115:4-22; Lundwall Depo., at 32:7-23, 190:23-191:25.]
3. **The sport of crew or rowing traditionally involves operating rowing shells before sunrise and/or after sunset without lights and often without an escort boat, notwithstanding federal statute.** [Joyce Depo., at 77:20-78:4, 113:4-114:8, 116:6-119:6, 122:3-10; Houston Depo., at 7:6-17, 9:21-11:5, 14:16-15:15; Lundwall Depo., at 225:9-226:2; Exhibit E of Brennan

Affidavit Filed 9/28/11 (U.S. Coast Guard Inland Navigation Rule 25(d)(iii)).] **NYRA Rules required all boats “to display proper lights in darkness and periods of reduced visibility... Members must provide their own lights.”** [Attached as Exhibit “E” to Brennan Aff. (“NYRA Rules”) at Section III.]

4. **Prior to October 24, 2005, the Rowers had discussed the fact that lights were not always available at the Boathouse. None of the Rowers had a problem with going out in a shell before sunrise without lights.** [Houston Depo., at 62:20-63:13, 65:7-20; Lundwall Depo., at 42:6-17, 44:11-45:3, 46:6-16, 47:4-25, 175:18-177:22, 217:6-24.]
5. **On various occasions prior to October 24, 2005, the Rowers rowed before sunrise without lights.** [Houston Depo., at 60:8-61:11; Lundwall Depo., at 40:23-41:14, 42:6-17, 44:11-45:3, 46:6-16, 47:4-25, 175:18-177:22.]
6. **The Rowers had to leave the Boathouse by 7:30 a.m. each morning in order to go to work, so they did not want to wait until sunrise to begin rowing.** [Lundwall Depo., at 175:18-177:22.]
7. **The Rowers chose to use a four-man 45-foot long “coxless” or “blind” (without coxswain) rowing shell on the morning of October 24, 2005 (the “coxless shell”).** [Runsdorfs’ Response to Request for Admissions, No. 1; Joyce Depo., at 19:3-15, 83:7-84:5; Houston Depo., at 17:18-18:7; Lundwall Depo., at 149:12-150:12.]

8. **The coxless shell used by the Rowers on October 24, 2005 required the Rowers to steer the shell and act as lookouts themselves, because they did not have a coxswain onboard.** [Joyce Depo., at 83:7-84:12, 111:23-112:21; Houston Depo., at 17:18-20:3, 55:6-20; Lundwall Depo., at 74:20-77:15, 149:12-150:12, 218:20-220:9.]
9. **The coxless shell used by the Rowers on October 24, 2005 required the Rowers to sit with their backs facing the direction of travel, such that the Rowers would have to look over their shoulders to see the river in front of the shell.** [Runsdorfs' Response to Request for Admissions, Nos. 1, 15 and 17; Joyce Depo., at 33:4-13, 42:11-14, 45:5-25, 83:7-84:12, 111:23-112:21; Houston Depo., at 17:18-20:3, 55:6-20; Lundwall Depo., at 49:11-25, 74:20-77:15, 218:20-220:9.]
10. **The Rowers placed the coxless shell in the Harlem River from the pier at the Boathouse on the morning of October 24, 2005 around 6:00 a.m.** [Joyce Depo., at 28:8-29:4, 30:14-23; Houston Depo., at 69:13-18, Lundwall Depo., at 40:3-11.]
11. **Sunrise was not until 7:17 a.m. on October 24, 2005.** [Runsdorfs' Response to Request for Admissions, No. 8.]
12. **It was still dark when the Rowers placed the shell in the river and began rowing south on the Harlem River.** [Runsdorfs' Response to Request for Admissions, Nos. 3, 7, 8, 15 and 50; Joyce Depo., at 33:14-34:6; Houston Depo., at 69:19-70:11; Lundwall Depo., at 59:4-14, 215:23-216:11.]

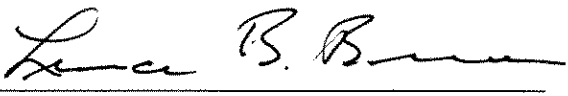
13. **There were no lights of any kind onboard or displayed on the bow of the coxless shell that the Rowers took out on the morning of October 24, 2005.** [Runsdorfs' Response to Request for Admissions, Nos. 9 and No. 30; Houston Depo., at 62:20-63:13, 65:7-20.]
14. **The Rowers were not accompanied by an escort boat on the morning of October 24, 2005.** [Runsdorfs' Response to Request for Admissions, No. 11.]
15. **None of the Rowers onboard the coxless shell was wearing a personal flotation device or "life jacket" on the morning of October 24, 2005.** [Runsdorfs' Response to Request for Admissions, No. 10; Houston Depo., at 75:11-15; Lundwall Depo., at 139:2-12, 147:25-148:9, 150:13-15.]
16. **When the Rowers reached the start line of their return run, they turned the coxless shell around to head north on the Harlem River, and rested in that position for 1 to 2 minutes while drinking water and removing clothing.** [Runsdorfs' Response to Request for Admissions, Nos. 25, 32, and 33; Joyce Depo., at 41:15-42:7, 44:2-17; Houston Depo., at 75:24-76:7; Lundwall Depo., at 55:14-21.]
17. **Once the Rowers turned the coxless shell to head north, the Rowers were themselves facing south. During the 1 to 2 minutes that the Rowers rested while facing south, none of the Rowers were looking north in the direction the bow of the shell was facing and none of the Rowers saw the "Ready Jet Go" approaching from the north until a few seconds before**

the impact. [Joyce Depo., at 44:2-46:16, 48:10-22; Houston Depo., at 77:12-79:13; Lundwall Depo., at 72:18-74:6, 79:5-80:15.]

18. **The collision between the coxless shell and the motorboat “Ready Jet Go” occurred before sunrise sometime between 6:15 a.m. and 6:35 a.m.** [Runsdorfs’ Response to Request for Admissions, Nos. 2, 8, 16, 29 and 50; Joyce Depo., at 34:20-35:14, 60:20-61:17; Houston Depo., at 84:5-11; Lundwall Depo., at 70:14-71:4, 120:12-25.]
19. **The operator of the Ready Jet Go did not see the coxless shell or the Rowers until after he heard the sounds of the impact between Ready Jet Go and the shell.** [Runsdorfs’ Response to Request for Admissions, No. 37.]
20. **Jim Runsdorf rowed in the “bow position” on October 24, 2005.** [Runsdorfs’ Response to Request for Admissions, No. 5.]
21. **Any navigational lights would have been affixed to the bow of the coxless shell.** [Joyce Depo., at 127:10-128:9; Houston Depo., at 38:6-22; Lundwall Depo. 49:3-10.]
22. **If a bow light had been placed on the coxless shell on the morning of October 24, 2005, the Rowers would have been able to see it if they had looked.** [Joyce Depo., at 132:2-133:20; Houston Depo., at 68:9-69:12; Lundwall Depo., at 49:3-10, 117:8-118:22.]

Dated: New York, New York
April 11, 2012

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By: 

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CERTIFICATE OF SERVICE

I, Brooke Travis, hereby certify that I electronically filed the attached Local Rule 56.1 Statement on behalf of the New York Rowing Association and the Peter J. Sharp Boathouse, with the Clerk of the Court using the CM/ECF system which will send notification of such filing electronically to the following:

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